

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:18-cv-00342-MOC-DSC

**THIS MATTER** is before the Court on Defendant's Motion to Vacate the Claim and Delivery Order (#25) and Motion to Dismiss for Failure to State a Claim (#27). A hearing was held on the pending motions on October 18, 2018, at which time the Court indicated that both of Defendant's motions would be denied. See Hr'g Tr. (#20). During the hearing, the parties reached a preliminary agreement as to the terms of the bond, pending the bond company's acceptance of such terms, and the transfer of the disputed goods pursuant to the Claim and Delivery Order (#24).<sup>1</sup>

Following the hearing, Defendant filed its second Motion to Vacate the Claim and Delivery Order (#39), which the Court denied. See Order (#50). In the same Order, the Court overruled Defendant's Objection to Amend[ed] Bond Language (#46), approved and accepted the Surety Bond annexed to Plaintiff's Notice of Posting of Bond (#43), and ordered Defendant to deliver

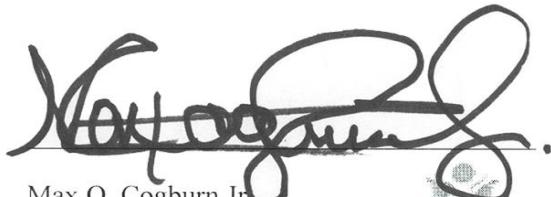
<sup>1</sup> Previously, the Court ordered that “plaintiff shall post a bond issued from an acceptable surety with the Clerk of Court in an amount twice the value of the goods (or a value in a lesser amount if the parties so agree),” and that “defendant shall make the disputed goods at its Statesville, North Carolina warehouse available to plaintiff for removal” within 24 hours of the bond posting. See Claim & Delivery Order (#24).

and make available for removal the disputed goods within 24 hours of issuance of the Order. See Order (#50). In light of the foregoing, Defendants motions will be denied as moot.

**ORDER**

**IT IS, THEREFORE, ORDERED** that Defendant's Motion to Vacate Order (#25) and Motion to Dismiss for Failure to State a Claim (#27) are **DENIED** as moot.

Signed: April 22, 2019

  
Max O. Cogburn Jr.  
United States District Judge